

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-998V

Filed: August 26, 2021

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JENNIFER BOLZ,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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UNPUBLISHED

Ruling on Entitlement; Influenza
("flu") vaccine; Axillary nerve palsy.

Daniel Seidman, Esq., Seidman Margulis & Fairman LLP, Belleville, IL, for petitioner.
Kyle Pozza, Esq., U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Roth, Special Master:

On August 11, 2020, Jennifer Bolz ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program ("the Program").² Petitioner alleges that she received an influenza ("flu") vaccination on October 7, 2018, and thereafter suffered from "left

¹ Although this Decision has been formally designated "unpublished," it will nevertheless be posted on the Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). **This means the Decision will be available to anyone with access to the internet.** However, the parties may object to the Decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public. *Id.*

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

axillary nerve palsy and/or left axillary neuropathy.” *See* Petition at 1.

On August 26, 2021, respondent filed a report pursuant to Vaccine Rule 4(c) stating that petitioner’s claim was appropriate for compensation. Resp. Rpt. at 1. Specifically, respondent agrees with petitioner’s claim that she developed a left axillary nerve palsy. *Id.* at 4. Respondent states that petitioner’s injury was more likely than not caused by administration of a flu vaccine in her left deltoid. *Id.* at 1, 4. Based on a review of the medical records, respondent states that petitioner has satisfied the applicable statutory requirements as her injury lasted for at least six months; therefore, petitioner has satisfied all legal prerequisites for compensation under the Act. *Id.* at 4.

A special master may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. §300aa-13; Vaccine Rule 8(d). In light of respondent’s recommendation that compensation be awarded and a review of the record, the undersigned finds that petitioner is entitled to compensation. This matter shall now proceed to the damages phase.

IT IS SO ORDERED.

s/Mindy Michaels Roth
Mindy Michaels Roth
Special Master